

SB 305 Senator Tutvedt – Factsheet

SB 305 will undermine the ability of local governments to protect taxpayers, neighboring property owners, and wildlife from being harmed by an inappropriately designed or placed subdivision.

Over the past three legislative sessions, the realtors, builders, local governments, planners, and smart growth groups have worked together to make the subdivision process more predictable for everyone. This bill undermines all of that work by throwing the door open to inadequate subdivision applications that will have to be approved by local governments regardless of the subdivision's impact on neighboring property owners or taxpayers.

SB 305 will do four main things –

- 1) **Sections 3 and 6 of the bill move the burden of proof that a subdivision will not adversely impact local facilities, wildlife, waters, agriculture, and even public health and safety from the subdivider and places that burden on the public and governing body.**

This means that the subdivider would have no responsibility to, and no interest in, identifying potential adverse impacts that the subdivision might have in his application, as is currently required under law. It is impractical to assume the local governing body or the public has the time, money, and the access to the property needed to prove with "substantial credible evidence" that a subdivision will have adverse impacts. As a result, the bill will virtually eliminate the ability of local governments to protect the public and neighboring property owners from being adversely impacted by new development.

- 2) **Section 4 of the bill will make it very difficult for a governing body to require a subdivider to pay for or build the infrastructure required by or directly attributable to the subdivision.**

This bill requires the governing body to find and pay for a "credible, third party" to analyze the potential impact that the subdivision might have on capital facilities – all within the existing 35 or 60 working day time limits. Local governments will not be able to meet this standard within the existing time limits. As a result, this bill will lead to either inadequate capital facilities or higher taxes to pay for the facilities needed to service new development.

- 3) **Section 5 only allows local governments to ask for additional information from the subdivider one time when reviewing a subdivision application.**

This change to the law will undermine the ability of local governments to gather the information they need to ensure a subdivision will not have adverse impacts. For example, if a subdivider provides an inadequate response to a local government question about his subdivision application then this provision in the bill would force the local government to review the application with that inadequate information. This provision will also severely limit the ability of

the governing body to ask for additional information based on public comments that they receive.

- 4) **Section 5 of the bill also requires that a governing body automatically approve a subdivision if they cannot review it within the allotted time limits.**

This section when combined with the other sections of the bill will ensure that future subdivisions are approved that will cost taxpayers many thousands of dollars to service and that will adversely impact not only wildlife, agriculture, waters, public health and safety, but also neighbors' property rights.

This bill, if passed, will place significant legal and financial liability on local governments and the people of Montana by:

- limiting the ability of local governments to gather the information necessary to ensure that a subdivision will not have adverse impacts;
- moving responsibility from the subdivider to ensure that the subdivision will not adversely impact public services, facilities, waters, agriculture, wildlife, and public health and safety to the public; and,
- requiring local governments to approve a subdivision if they cannot make a decision within the existing 35 or 60 working day time limits.

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